

The Flinn Report

Illinois

Regulation

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700 Stratton Bldg., Springfield IL 62706

Joint Committee on Administrative Rules

Illinois General Assembly

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Illinois Regulation is a summary of the weekly regulatory decisions of State agencies published in the Illinois Register and action taken by the Illinois General Assembly's Joint Committee on Administrative Rules. Illinois Regulation is designed to inform and involve the public in changes taking place in agency administration.

New Regulations

EMERGENCY VOLUNTEERS

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES adopted an amendment for "Conditions of Employment" (80 Ill Adm Code 303; 29 Ill Reg 19000), effective 8/2/06, to implement Public Act 93-893. The Illinois Emergency Management Agency (IEMA) is added to the American Red Cross as an additional organization with which a State employee may work when the employee has been granted a leave of absence as a disaster service volunteer. Also, such work is no longer limited to service within Illinois but must be within the United State or its territories.

Questions/requests for copies: Gina Wilson, DCMS, 720 Stratton Bldg., Springfield IL 62706, 217/785-1793.

FOOD STAMPS

THE DEPARTMENT OF HUMAN SERVICES adopted amendments for "Food Stamps" (89 Ill Adm Code 121; 29 Ill Reg 16344), effective 8/1/06, concerning food stamp eligibility calculations to allow increased deductions from monthly income calculations for air conditioning/heating costs and the "limited utility standard allowance". (Households that are not billed

for air conditioning or heating but are billed for at least 2 other utilities must use the limited utility standard allowance.) The heating and cooling allowance increases from \$259 to \$268, and the limited utility standard allowance increases from \$155 to \$157.

Questions/requests for copies: Tracie Drew, DHS, 100 S. Grand Ave. E., 3rd Fl., Springfield IL 62762, 217/785-9772.

LONG-TERM CARE PERSONNEL

The DEPARTMENT OF PUBLIC HEALTH adopted amendments for "Intermediate Care for the Developmentally Disabled Facilities Code" (77 Ill Adm Code 350; 30 Ill Reg 2472), effective 8/7/06, to add the importance of nutrition in general healthcare to the list of subjects covered in a long-term care facility's orientation program for all new employees and student interns rather than limiting this subject to the orientation program provided for new direct care staff and direct care student interns. Additional amendments strike a specific requirement that information on the prevention and treatment of bed sores (decubitus ulcers) be included in direct care staff orientation. A more general statement requires all em-

(cont'd next page)

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WATER POLLUTION

The POLLUTION CONTROL BOARD proposed amendments for "Sewer Discharge Criteria" (35 Ill Adm Code 307; 30 Ill Reg 13645) and "Pretreatment Programs" (35 Ill Adm Code 310; 30 Ill Reg 13681) that reflect federal amendments adopted by the federal Environmental Protection Agency (USEPA) from 7/1/05 through 12/31/05 that established the Cross-Media Electronic Reporting Rule. The federal rule sets standards for filing documents in various federal program areas in an electronic format, imposing minimum requirements on documents filed in that format and on the electronic document systems used to receive them. Amendments to Part 310 also streamline general wastewater pretreatment requirements to make them more consistent with the National Pollutant Discharge Elimination System requirements for direct dischargers. Amendments to Part 307 also reflect USEPA effluent guidelines and wastewater pretreatment requirements applicable to sources in the iron and steel manufacturing point source category. Those affected by these rulemakings include small businesses, small municipalities, and not-for-profit corporations that dispose of industrial wastewaters into the sewage collection system of a publicly-owned treatment works.

Requests for copies/comments until 10/2/06: Dorothy Gunn, PCB, 100 W. Randolph, Ste. 11-500, Chicago IL

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NEW REGULATIONS: Rules adopted by agencies this week.

PROPOSED REGULATIONS: Rules proposed by agencies this week, commencing a 45-day First Notice period. Public comments must be accepted by the agency for the period of time indicated.

☞: Symbol designating rules of special interest to small businesses, small municipalities, and not-for-profit corporations. Agencies are required to consider comments from these groups and minimize the regulatory burden on them.

QUESTIONS/COMMENTS/RULE TEXT: Direct mail or phone calls to the agency personnel listed below each summary. Providing volume and issue number of The Flinn Report or the Illinois Register will expedite the process. Some agencies charge copying fees. However, copy requests do not have to be made under the Freedom of Information Act.

New Regulations

employees who deal directly with residents to be trained concerning individual resident requirements and behavioral issues. Also, both orientation training, other types of training, and employee competency must be documented. Small businesses or not-for-profit corporations that own or operate intermediate care facilities for individuals with developmental disabilities may be affected by this rulemaking.

Questions/requests for copies: Susan Meister, DPH, 535 W. Jefferson, 5th Fl., Springfield IL 62761, 217/782-2043, e-mail: rules@idph.state.il.us

dents. A change since 1st Notice adds the applicable amounts for the 2000 tax year in order to accurately emulate statutory text. Employers offering these types of plans may be affected by this rulemaking.

Questions/requests for copies: Jackson Donley, DOR, Legal Services Office, 100 W. Jefferson, Springfield IL 62794, 217/782-7055.

☞ INCOME TAX

THE DEPARTMENT OF REVENUE adopted an amendment to "Income Tax" (86 Ill Adm Code 100; 30 Ill Reg 6303), effective 8/1/06, to establish annual thresholds for minimum and maximum higher deductibles and maximum contributions for medical savings account plans for tax years 2000-2006. Such accounts are used to pay eligible medical expenses of an employee and his or her depen-

☞ MEDICAL ASSISTANCE

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES adopted emergency amendments to "Medical Payment" (89 Ill Adm Code 140; 30 Ill Reg 13909), effective 8/2/06, for a maximum of 150 days. An identical proposed rulemaking appears in this issue of the *Illinois Register* at 30 Ill Reg 13633. The rulemakings establish a Primary Care Case Management Program. The program is a managed care program in which each enrollee has a primary care provider who knows the health care provided, helps insure that an enrollee receives immunizations and other preventative care, pre-

vents duplication of services, insures that the enrollee receives the appropriate level of care, provides referrals, and improves the quality of care received. With exceptions, individuals enrolled in the Medical Assistance, Children's Health Insurance, Covering ALL KIDS and Veterans' Health Insurance programs are eligible for this new program. The amendments detail primary care provider participation requirements and obligations under the program and specify the care management fees providers receive for participating. Physicians, federally-qualified health centers, rural health clinics, school-based/linked clinics, certified local health departments, encounter rate clinics, and maternal and child health clinics may be affected by these rulemakings.

Questions/requests for copies/comments concerning the proposed rulemaking until 10/2/06: Tamara Tanzillo Hoffman, DHFS, 201 S Grand Ave. E., 3rd Fl. Springfield IL 62763-0002, 217/557-7157.

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60601, 312/814-3620. Questions: Michael J. McCambridge at the same address, 312/814-6924, e-mail: mccambm@ipcb.state.il.us. Please reference docket R06-13.

☞ PCB RULE WITHDRAWN

The POLLUTION CONTROL BOARD announced the withdrawal of proposed amendments for "Permits and General Provisions" (35 Ill Adm Code 201; 30 Ill Reg 11506) that were published in the 7/7/06 *Illinois Register*. The rulemaking would have made prevention of significant deterioration (PSD) permits effective upon issuance unless the permit stated otherwise by its terms or an appeal had been filed and a stay granted that applied to permits issued on or after the effective date of the approval of these requirements as

part of Illinois' State Implementation Plan under the federal Clean Air Act. PCB stated that the Illinois Environmental Protection Agency concluded that, at this time, the interest of its PSD program would be best served by a withdrawal of the rulemaking. Those affected by this rulemaking include small businesses, small municipalities, and not-for-profit corporations that apply for or appeal a PSD permit.

Questions/requests for copies: John Knittle, PCB, 2125 S. First St., Champaign IL 61820, 217/278-3111, e-mail: knittlej@pcb.state.il.us. Please reference docket R06-27.

☞ DRIVER'S LICENSES

The SECRETARY OF STATE proposed

an amendment to "Cancellation, Revocation or Suspension of Licenses or Permits" (92 Ill Adm Code 1040; 30 Ill Reg 13846). The proposed rulemaking implements 2 public acts, one of which requires substantive changes in the rules. SOS is implementing changes made by Public Act 94-930, which allows SOS to suspend or revoke the driver's license of an individual who violates regulations for license plates, parking decals, or devices issued to people with disabilities. Illegal users will have their driver's licenses suspended for 1 month for the 1st conviction, or if the individual has a pending or effective revocation for any type of offense, SOS will revoke the driver's license for the 1st conviction of this offense. For individuals convicted a 2nd time, SOS will suspend his or her driver's license for 6 months, or if the

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individual has a pending or effective revocation, SOS will revoke the license. The driver's license and driving privileges will be revoked for a 3rd or subsequent conviction.

Questions/requests for copies/comments until 10/2/06: JoAnn Wilson, SOS, 2701 S. Dirksen Pkwy., Springfield IL 62723, 217/785-1441.

SOS also proposed amendments to "Procedures and Standards" (92 Ill Adm Code 1001; 30 Ill Reg 13757). The proposed changes include revision of the protocols for allowing out-of-state attorneys to represent a client at an SOS hearing pursuant to an order from a circuit judge in the county in which the hearing is conducted rather than by leave of the director of the SOS administrative hearings department. Petitions for a hearing may be transmitted by facsimile, e-mail, or regular mail. Petitions to contest an implied consent suspension must be filed within 90 days of the suspension, with withdrawals of a petition allowed no more than twice. The rulemaking eliminates a motion to correct a material misstatement of fact in an order, and SOS will not reconsider a decision made or order entered in a formal hearing, stating instead that the petitioner's remedy is under the Administrative Review Law. Also, the time period to seek a new hearing is reduced from 120 to 90 days, and in specified circumstances, only original documents will be accepted. Implied consent hearings may go forward even if the arresting officer does not appear and will be conducted on the basis of the officer's sworn reports. The period of time for an out-of-state petitioner to provide requested information is shortened, and failure to comply shall result in a written order withdrawing the petitioner's case. Persons not a party to a proceeding may obtain a copy of the record of a safety responsibility hearing under the Freedom of Information Act. If the SOS permits driving relief, the SOS will inform the petitioner of conditions that must be followed. The time for completing restricted driving permit

requirements may be extended if the petitioner has demonstrated a good faith effort or a change in conditions (e.g., change in employment). Also, factors considered by the hearings department in affording driver relief may include whether the petitioner has operated a boat or snowmobile under the influence and the petitioner's driving performance while driving with an auto interlock device. This Part is revised to comply with a recent public act that bars the SOS from issuing a driver's license to a new resident while the applicant's driving privileges are revoked in another jurisdiction, and driving on a probationary restricted driving permit without incident does not entitle a petitioner to license reinstatement at his or her next hearing. Factors to be considered in allowing internet support/recovery programs to be used as evidence of a person's rehabilitative behavior are added. The amendments additionally clarify when an investigative report or information furnished to the SOS must be updated. Rather than summary cancellation of driving with a Breath Alcohol Ignition Interlock Device (BAIID) in cases where there is evidence of tampering, SOS will afford the BAIID driver an opportunity to explain the circumstances. If the SOS BAIID unit receives monitor reports of violations of the terms and conditions of a BAIID permit after a hearing is conducted or after reinstatement of driving privileges, the unit reserves the right to cancel a permittee's driving privileges. This rulemaking may affect small service providers (e.g., DUI counseling services) licensed by the Division of Alcohol and Substance Abuse of the Department of Human Services.

Questions/requests for copies/comments until 10/2/06: Marc Loro, Office of the SOS, 200 Howlett Bldg., Springfield IL 62756, 217/785-8245, Fax 217/782-2192, e-mail: mloro@ilsos.net

HOSPITAL SERVICES

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES proposed an amendment to "Hospital Services" (89

Ill Adm Code 148) striking a mis-numbered cross-reference to a section in the Department's rules titled "Medical Payment" (89 Ill Adm Code 140.80) that erroneously made hospital assessment fees a non-allowable Medicaid cost. Assessment fees are allowable costs that are eligible for reimbursement.

Questions/requests for copies/comments until 10/2/06: Tamara Tanzillo Hoffman at the DHFS address and telephone number above.

CHILDREN'S RESPITE CARE

The DEPARTMENT OF PUBLIC HEALTH proposed amendments to "Children's Respite Care Center Demonstration Program Code" (77 Ill Adm Code 260; 30 Ill Reg 13611) to change the demonstration program serving children with special medical needs up to 18 years of age to a permanent program serving those younger than age 22 to implement Public Act 93-402. The centers are renamed community-based health care centers, and the title of the Part is changed accordingly. In addition to 14-day, short-term stays, stays of one to 120 days to facilitate a transition to home or another appropriate setting are specified, and the maximum allowable number of children served is increased from 10 to 12. A new definition defines "medical day care" as care for no more than 12 hours in a 24-hour period, and new or amended definitions are included for diagnostic studies, dietitian, medically-fragile children, technology-dependent children, and weekend camps. The incorporation by reference of national fire safety standards is also updated. Additional amendments require centers to establish specific admission criteria, children's participation criteria in the various programs, and criminal background checks of center personnel. Those affected by this rulemaking include service providers in a respite center setting.

Questions/requests for copies/comments until 10/2/06: Susan Meister at

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the DPH address and telephone number above.

Note to reader: This week begins a new practice of citing the *Illinois Register* volume and page number on which a rulemaking was pro-

posed after the rulemaking's *Illinois Administrative Code* citation. Thus, the Department of Revenue's adopted rulemaking titled "Income Tax" was originally proposed in volume 30 of the *Illinois Register* at page number 6303. (Volume 29

refers to the year 2005, and volume 30 is 2006.) We hope this information will be helpful in locating rule text online or in the paper copy of the *Illinois Register*.

Second Notices

The following rulemakings were moved to second notice this week by the agencies listed below, commencing the JCAR review period. These rulemakings will be considered at JCAR's September 12, 2006 meeting in Chicago.

SECRETARY OF STATE

"Public Library Construction Grants" (23 Ill Adm Code 3060) proposed 5/26/06 (30 Ill Reg 9436)

"Illinois State Library, Library Services Division" (23 Ill Adm Code 3010) proposed 5/12/06 (30 Ill Reg 8810)

STATE BOARD OF ELECTIONS

"Miscellaneous" (26 Ill Adm Code 207) proposed 5/19/06 (30 Ill Reg 9253)

DEPARTMENT OF LABOR

"Prevailing Wage Hearing Procedures" (56 Ill Adm Code 100) proposed 11/28/05 (29 Ill Reg 19064)

DEPARTMENT OF NATURAL RESOURCES

"Duck, Goose and Coot Hunting" (17 Ill Adm Code 590) proposed 6/23/06 (30 Ill Reg 11000)

DEPARTMENT ON AGING

"Community Care Program" (89 Ill Adm Code 240) proposed 6/2/06 (30 Ill Reg 9949)

JCAR Meeting Action

At its August 8, 2006 meeting, the Joint Committee on Administrative Rules voted the two Objections and one Recommendation below. The Committee also withdrew two previously voted filing prohibitions. Consideration of the following three rulemakings was extended for 45 additional days, and these rulemakings will be considered at a later JCAR meeting: "State Universities Civil Service System" (80 Ill Adm Code 250; 30 Ill Reg 108), "Prequalification of Contractors and Issuance of Plans and Proposals" (44 Ill Adm Code 650; 30 Ill Reg 9991), and "Fire Sprinkler Contractor Licensing Rules" (41 Ill Adm Code 109; 29 Ill Reg 15410).

SECRETARY OF STATE

The Committee objects to the Secretary of State applying the emergency rules titled "Issuance of Licenses" (92 Ill Adm Code 1030; 30 Ill Reg 11409) three days before the Governor signed the authorizing statute.

STATE BOARD OF EDUCATION

JCAR objects to the State Board of Education adopting its emergency rules titled "Early Childhood Block Grant" (23 Ill Adm Code 235; 30 Ill Reg 11793) before the authorizing statute, Public Act 94-1054, became effective on July 25, 2006. SBE issued Requests for Proposals and was enforcing policy not authorized by statute during the intervening period.

DEPARTMENT OF VETERANS' AFFAIRS

The Joint Committee considered the rulemaking titled "Veterans' Scratch-Off Lottery Grants" (95 Ill Adm Code 123; 30 Ill Reg 8398) and recommends that the Department of Veterans' Affairs explain in writing its methodology underlying the funding of the grants in the proposed rules (a \$1 million cap on funds available to 4 of the 5 categories (post-traumatic stress disorder, homelessness, disability benefits and long-term care); all remaining funding to the 5th category (health insurance costs)), including the number of applicants it anticipates in each of the 5 categories, how many grant applicants in each category the Department anticipates that it can fund, and the logic behind the proposed distribution of funds.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

The Joint Committee withdrew the prohibitions against the filing of the Department of Children and Family Services' rulemakings titled "Licensing Standards for Group Day Care Homes" (89 Ill Adm Code 408; 29 Ill Reg 18207) and "Licensing Standards for Day Care Homes" (89 Ill Adm Code 406; 29 Ill Reg 18180). The Committee originally issued these two prohibitions at its July 11, 2006 meeting. Following the July meeting, DCFS clarified rule text to describe the relationship between the State and local authorities in relation to day care home and group day care home fire safety inspections. Additionally, a list of items to be inspected was appended to the rulemakings. As modified, these two rulemaking may now be adopted.

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